

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ENDO PHARMACEUTICALS INC., et
al.,**

Plaintiffs,

vs.

FEDERAL TRADE COMMISSION,

Defendant.

Case Number : 2:16-CV-05600-PD

Notice of Stipulated Voluntary Dismissal

WHEREAS, on March 30, 2016, the Federal Trade Commission (“FTC”) filed a Complaint in this Court against Endo Pharmaceuticals Inc., Endo International plc (together “Endo”), Teikoku Pharma USA, Inc., Teikoku Seiyaku Co., Ltd., Watson Laboratories, Inc., Allergan plc, and Impax Laboratories, Inc. (“Impax”), *see FTC v. Endo Pharm. Inc. et al.*, No. 2:16-CV-01440-PD (E.D. Pa.) (the “Original Action”);

WHEREAS, on October 20, 2016, this Court ordered that the FTC’s claims relating to the drug Opana ER be severed from the FTC’s claims relating to the drug Lidoderm, *see* Dkt. 120, No. 2:16-CV-01440-PD (E.D. Pa.);

WHEREAS, on October 25, 2016, the FTC voluntarily dismissed the Original Action, *see* Dkt. 121, No. 2:16-CV-01440-PD (E.D. Pa.);

WHEREAS, on October 26, 2016, Endo and Impax filed the instant action against the FTC (the “Declaratory Judgment Action”);

WHEREAS, in this Declaratory Judgment Action, Plaintiffs Endo and Impax seek a declaration that the FTC lacks statutory authority to file a federal court enforcement lawsuit against them related to their settlement of patent litigation involving the drug Opana ER. The Complaint alleges that “[t]he proper venue for the FTC to challenge the Opana ER Agreements is through an administrative proceeding under Section 5(b) of the FTC Act.” Compl. ¶ 21. In the alternative, the Complaint seeks a declaration that the FTC cannot seek disgorgement or restitution against plaintiffs in any enforcement action related to Opana ER;

WHEREAS, the FTC and Endo have reached a settlement that resolves all of the FTC’s claims against Endo related to the drug Opana ER, the terms of which are reflected in a Stipulated Order filed in *FTC v. Allergan PLC, et al.*, Dkt. 1, No. 17-cv-00312 (N.D. Cal.) (the “Endo Settlement Order”); and

WHEREAS, on January 23, 2017, the FTC filed an administrative proceeding under Section 5(b) of the FTC Act against Impax challenging the Opana ER settlement agreement, *see In the Matter of Impax Labs., Inc.*, FTC Dkt. 9373 (the “Administrative Action”);

WHEREFORE, Plaintiffs Endo and Impax and Defendant FTC hereby stipulate as follows:

1. The FTC stipulates that it will not bring any action against Impax in federal court arising from or related to the allegations and/or claims regarding Opana ER that were or could have been asserted in the Original Action.
2. The FTC stipulates that it will not bring any action against Endo in federal court arising from or related to the allegations and/or claims regarding Opana ER that were or could have been asserted in the Original Action.

3. The FTC and Endo stipulate that the FTC's dismissal of the Original Action shall be treated for all purposes as being with prejudice with respect to any claims asserted in that action against Endo.

4. In light of Endo's settlement with the FTC, the FTC's filing of the Administrative Action, and the above stipulations, the parties stipulate that this Declaratory Judgment Action is now moot.

5. In light of the foregoing, Endo, Impax, and the FTC—the only parties to have appeared in this action—hereby stipulate to the voluntary dismissal of this case pursuant to Rule 41(a)(1)(A)(ii).

ACCORDINGLY, the case is now dismissed.

Dated: February 2, 2017

Respectfully submitted,

/s/ Edward D. Hassi

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CERTIFICATE OF SERVICE

I, George G. Gordon, hereby certify that on February 2, 2017, I caused a true and correct copy of the foregoing Notice of Stipulated Voluntary Dismissal to be served upon all counsel of record by the Court's ECF system.

/s/ George G. Gordon

George G. Gordon